

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RICARDO MERCADO-GUILLEN,

Petitioner,

v.

KIRSTJEN NIELSEN, et al.,

Respondents.

Case No. 18-cv-00727-HSG

**ORDER TO SHOW CAUSE**

Re: Dkt. No. 1

A federal district court is authorized to grant a writ of habeas corpus when a petitioner is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3).

Petitioner Ricardo Mercado-Guillen, who is in the custody of the Department of Homeland Security, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. *See* Dkt. No. 1. He alleges that he has been detained at the West County Detention Facility in Richmond, California for over six months without a bond hearing before an immigration judge. Petitioner alleges his continued detention violates 8 U.S.C. § 1231 and his Fifth Amendment right to due process. *See Zadvydas v. Davis*, 533 U.S. 678 (2001).

He names six individuals as Respondents: Secretary of the U.S. Department of Homeland Security Kirstjen Nielsen; Acting Director of U.S. Immigration and Customs Enforcement Thomas D. Homan; Executive Associate Director of Enforcement and Removal Operations for U.S. Immigration and Customs Enforcement Matthew Albence; Field Office Director of U.S. Immigration and Customs Enforcement for San Francisco David Jennings; Contra Costa County

Sherriff David O. Livingston; and U.S. Attorney General Jefferson Sessions.<sup>1</sup> See Dkt. No. 1 ¶¶ 6–12.

Having considered the pleadings and documents in this matter, and good cause having been shown by Petitioner, the Court **ORDERS** Respondents to Show Cause:

1. By February 9, 2018, Respondents shall respond by answering the allegations and showing cause why a writ of habeas corpus should not issue, or by filing a motion to dismiss on procedural grounds;


2. Petitioner’s traverse, opposition, or statement of non-opposition shall be filed by February 16, 2018; and

3. Any reply by Respondents shall be filed by February 23, 2018.

The Clerk of the Court shall serve a copy of this Order, the petition, and all attachments thereto, on Respondents and shall serve copies of these documents to the U.S. Attorney for the Northern District of California.

**IT IS SO ORDERED.**

Dated: 2/6/2018

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge

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<sup>1</sup> Under 28 U.S.C. § 2241, the proper respondent for a habeas corpus petition is the person “with the ability to produce the prisoner’s body before the habeas court.” *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). The “default rule” is that the “warden of the facility where the prisoner is being held” is the proper respondent where the petitioner is challenging present physical confinement, “not the Attorney General or some other remote supervisory official.” *Id.* Petitioner alleges David O. Livingston, the Sheriff-Coroner of Contra Costa County, is in charge of the West County Detention Facility where Petitioner is being held. See Dkt. No. 1 ¶ 12.